

REMARKS/ARGUMENTS

In the Office action dated March 17, 2008, the Examiner rejected claims, 1 and 3-7, all of the claims pending in the Application, under 35 U.S.C. § 103(a) as being unpatentable over newly cited and applied U.S. Patent No. 5,784,843 to Greer *et al.* in view of newly cited and applied U.S. Patent No. 5,794,392 to Forslund, III *et al.*

In the Specification, no changes

In the Claims, no changes

The Invention

The invention is for a mixed-use building structure, and more specifically to such structure which includes, immediately and independently, over a selected lower floor, such as, but not necessarily, a ground-level floor, an overhead sub-story, *i.e.*, a story of less-than full height, that accommodates a utilities-conduit bypass for the immediate lower floor and immediate upper floor. This bypass provides the internal volume wherein the lower floor can be defined by a full, unoccluded plate-height, which, in turn, allows for the lower-level occupancy early in the process of building construction. Plate-height in this space, *i.e.*, that vertical dimension in the space which extends from floor plane to ceiling plane, also referred to as a continuum, is unoccluded in the sense that no utilities-conduit structures, such as water pipes, gas lines, electrical conduits, etc., ever extend directly into the space, or through the ceiling plane, in the context of providing utility services to building floors which are above that lower-level story. It should be understood that the structure of the invention includes (1) full-height stories and (2) less-than-full-height sub stories; all vertically stacked above one another. The sub-story provides an independent utilities

containment space, eliminating the need for such utilities to occupy space in the full-height spaces.

The Applied Art

U.S. Patent No. 5,784,843 to Greer *et al.* describes use of raised floor under modular cubicles (think prairie-dog town) wherein utilities are run on the conventional floor under the raised floor of a conventionally designed and fabricated building, hereinafter '843.

U.S. Patent No. 5,794,392 to Forslund, III *et al.* describes another utility distribution system for use in a conventionally designed and fabricated building, hereinafter '392.

The Claims

It is noted that the previously filed amendment and remarks were apparently sufficient to warrant removal of the previously applied references.

There are four independent claims: claims 1, 4, 6 and 7. All of these claims recite, in slightly different manners, the provision of two full plate-height stories in a building and a sub-story having a height less than that of the full plate-height. The sub-story is a utility conduit containment space. The stories are vertically stacked, with the sub-story being located intermediate the two full plate-height stories. Also recited is that the sub-story does not occupy any portion of the full plate-height story.

Neither '843 nor '392 teach or suggest this construction.

With respect to claims 1 and 6, the Examiner contends that '843 describes use of floor and ceiling for utilities and that such space represents less than a full plate-height area, however, such use of the floor and ceiling do not meet the limitation that the sub-story not occupy any portion of the full plate-height story. Thus, '843 does not teach nor suggest Applicant's

construction. Likewise, '392 describes use of a raised floor, which also occupies a portion of the full plate-height story. Thus, claims 1 and 6 are allowable over the applied references, which do not teach the requisite sub-story which is less than a full plate-height and which does not occupy any portion of a full plate-height story to which utilities are provided.

Claim 3 is allowable with its allowable parent claim.

Claim 4 also includes the limitation that the sub-story not occupy any portion of the full plate-height story - both of the applied references teach raised floors or lowered ceilings, which occupy a portion of the full plate-height story, and thus do not teach nor suggest Applicant's construction. Claim 4 is allowable over the applied art.

Claim 5 recites the provision of a water-impervious lining to prevent liquid drainage into a lower story. The Examiner contends that, because '392, at col. 8, lines 32-40, states that the floor pans are made from metal or plastic, that this provides the requisite water impervious lining. The Examiner is incorrect. There is no teaching in '392 that the floor pans are sealed to one another to be water-impervious. The cited portion of '843 suggest otherwise, in that the floor pans are stated to be conformal to an uneven floor, suggesting that the edges thereof are not fixed to one another. Claim 5 is clearly allowable over the applied art.

Claim 7 includes the full plate-height - sub story plate-height limitations as well as the water-impervious limitation of claim 5, and is therefore allowable for the reasons set forth in connection with claims 1, 4, 5 and 6.

The Examiner states, in the Conclusion portion of the Office action, that it is "well-known" that large buildings have utility floors. The fact that this information comes from a

source well-known for mis-information, *i.e.*, Wikipedia, notwithstanding, such utility floors are full plate-height floors, generally occupying more than required space for utilities. Applicant's construction allows for sub-stories which are not full plate-height. Thus the Wikipedia reference is no more relevant than the two applied references.

The Examiner's statement that the claims read on drop ceilings and raised floors is simply wrong: A drop ceiling or a raised floor occupies a portion of the full plate-height of a building story: the claims require that the sub-story NOT occupy any portion of a full plate-height story.

In light of the foregoing remarks, the Examiner is respectfully requested to reconsider the rejections and objections stated in the Office action, and pass the application to allowance. If the Examiner has any questions regarding the amendment or remarks, the Examiner is invited to contact the undersigned.

Provisional Request for Extension of time in Which to Respond

Should this response be deemed to be untimely, Applicants hereby request an extension of time under 37 C.F.R. § 1.136. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any over-payment to Account No. 22-0258.

Customer Number

56703

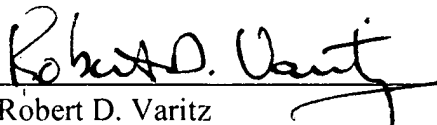
Respectfully Submitted,

ROBERT D. VARITZ, P.C.

Registration No: 31436

Telephone: 503-720-1983

Facsimile: 503-233-7730



Robert D. Varitz

4915 S.E. 33d Place

Portland, Oregon 97202

CERTIFICATE OF EXPRESS MAILING

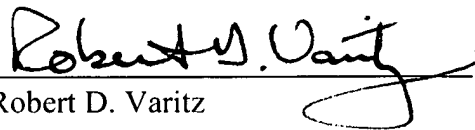
"Express Mail" Mailing Label No.

Date of Deposit - May 16, 2008

EM185553036US

I hereby certify that the attached Response to Office Action under 37 C.F.R. § 1.111 is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Washington, D.C. 22313-1450


Robert D. Varitz